

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

DANIEL FREEMAN,

Plaintiff,

v.

WYNDEN STARK, LLC,
d/b/a GQR GLOBAL MARKETS,

Defendant.

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Civil Action No. 1:20-CV-589

DEFENDANT’S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant Wynden Stark, LLC d/b/a GQR Global Markets (“Defendant”), hereby removes this civil action filed by Plaintiff Daniel Freeman (“Plaintiff”) to the United States District Court for the Western District of Texas, Austin Division. Defendant respectfully shows the Court as follows:

I. INTRODUCTION

1. On or about April 20, 2020, Plaintiff filed his Original Petition (“Petition”) in the 353rd Judicial District Court of Travis County, Texas (“State Court Action”), alleging retaliation, intimidation and wrongful termination in violation of Section 122.001 of the Texas Civil Practice & Remedies Code.¹ See Ex. A-2, Pl.’s Orig. Pet. at ¶¶ 3, 10, 13, 15-18. The case is styled *Daniel Freeman v. Wynden Stark, LLC d/b/a GQR Global Markets*, Cause No. D-1-GN-20-002206.

2. Defendant accepted service via email on May 5, 2020.

3. Defendant filed its Answer to Plaintiff’s Petition in the State Court Action on May 29, 2020.

¹ Plaintiff asserts that Defendant intimidated and terminated his employment because of his attendance and service as a juror.

4. There is no other defendant named in the Petition other than Defendant. Defendant has timely filed this Notice of Removal within the 30-day time period required by 28 U.S.C. § 1446(b).

II. BASIS FOR REMOVAL

5. This Court has original jurisdiction over Plaintiff's claims based upon diversity of citizenship pursuant to 28 U.S.C. § 1332. Diversity of citizenship exists where the suit is between a citizen of a state and a citizen of a foreign state and the amount in controversy exceeds \$75,000. *See Allen v. R&H Oil & Gas Co.*, 63 F.3d 1326, 1330 (5th Cir. 1995); 28 U.S.C. § 1332(a)(2).

6. Upon information and belief, Plaintiff, an individual, is a citizen of North Carolina.² *See Ex. A-2 at ¶ 6.* Upon information and belief, Plaintiff is not a citizen of the United Kingdom.

7. Defendant is a Delaware limited liability company.³ For diversity jurisdiction purposes, the citizenship of a limited liability company is determined by the citizenship of all of its members. *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1079 (5th Cir. 2008).

8. Defendant is a single-member limited liability company whose single member is Wynden Stark LTD trading as GQR Global Markets ("Wynden Stark LTD"), a private limited company incorporated in the United Kingdom, with a principal place of business located in the United Kingdom, at Westminster Tower, 3 Albert Embarkment, Prince's, London SE1 7SP, United Kingdom. For diversity jurisdiction purposes then, Defendant is a citizen of the United Kingdom because its single member is a citizen of the United Kingdom..

9. Thus, complete diversity exists, and this Court has original jurisdiction over the State Court Action under 28 U.S.C. § 1332(a)(2).

² Plaintiff's Petition fails to identify Plaintiff's citizenship; however, Plaintiff's affirmatively pleads that he resided in North Carolina. Upon information and belief, Plaintiff's last known address is in North Carolina.

³ Contrary to Plaintiff's allegations, Defendant's principal place of business is in neither Texas nor North Carolina.

10. The removing party can satisfy the amount in controversy requirement where it is apparent from the face of the petition that the claims are likely to exceed \$75,000. *Manguno v. Prudential Prop. & Cas. Ins. Co.*, 276 F.3d 720, 723 (5th Cir. 2002). Here, Plaintiff's Petition states that Plaintiff seeks "the monetary relief being over \$1,000,000." *See* Ex. A-2 at Prayer for Relief P. 5. Plaintiff's alleged damages include statutory and compensatory damages, reinstatement, attorneys' and expert fees, declaratory and injunctive relief, interest as provided by law, costs of suit and any further relief. *Id.* at P. 4-5.

11. Pursuant to 28 U.S.C. § 1441(a), "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant . . . to the district court of the United States for the district and division embracing the place where such action is pending."

12. The United States District Court for the Western District of Texas, Austin Division includes the judicial district in which Plaintiff filed his State Court Action. Thus, removal to this Court is proper.

III. PROCEDURAL STATEMENTS

13. An index of all documents filed in the State Court Action, and the date of filing, is attached hereto as Exhibit A.

14. All pleadings, process, orders, and other filings in the State Court Action, including the docket, are attached to this Notice of Removal as required by 28 U.S.C. § 1446(a). *See* Exhibits A-1 to A-3.

15. A true and correct copy of this Notice of Removal will be promptly filed with the Clerk of the District Court of Travis County, Texas as required by 28 U.S.C. § 1446(d).

16. Written notice of the filing of this Notice of Removal has been or will be given to

Plaintiff as required by law.

17. A completed Federal Civil Cover Sheet, Supplemental Civil Cover Sheet, and the removal fee accompanies this Notice of Removal.

IV. CONCLUSION

18. For the foregoing reasons, Defendant respectfully requests that further proceedings in the matter of *Daniel Freeman v. Wynden Stark, LLC d/b/a GQR Global Markets*, Cause No. D-1-GN-20-002206, pending in the 353rd Judicial District Court of Travis County, Texas, be discontinued, and that this suit be removed to the United States District Court for the Western District of Texas, Austin Division.

DATED: June 3, 2020

Respectfully submitted,

By: /s/ Paul E. Hash

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

On June 3, 2020, I electronically submitted the foregoing document with the Clerk of the Court for the U.S. District Court, Western District of Texas, using the electronic case filing system of the Court. I hereby certify that I have served all counsel of record noted below via overnight delivery service:

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/s/ Paul E. Hash

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